

Remarks

Claims 29-48 are pending in this patent application and were examined in the Final Office Action of April 29, 2004. Applicants note with appreciation the allowability of claims 34 and 36-41. Claims 29-33, 35 and 42-48 stand rejected.

Rejection under 35 U.S.C. 112, second paragraph

Claim 42 stands rejected under 35 U.S.C. 112, second paragraph for lacking antecedent support for "the nucleic acid" in line 2. Applicants respectfully request reconsideration and withdrawal of this rejection because claim 42 as amended recites "a nucleic acid", and not "the nucleic acid". That claim was also amended to change the reference to step c) of claim 29, rather than step d), which no longer exists.

Double patenting

Claims 29-33, 35, and 42-48 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,635,493 ("the '493 patent"). Applicants respectfully request reconsideration and withdrawal of this rejection in light of the enclosed Terminal Disclaimer, disclaiming the terminal portion of the patent issuing from the instant application that would extend beyond the expiration date of the full statutory term of the '493 patent. A check for the \$110 fee specified in 37 C.F.R. 1.20(d) for the terminal disclaimer is also enclosed.

Conclusion

In light of the claim amendments and the above discussion, applicants respectfully request withdrawal of all rejections and passage of the pending claims, 29-48, to allowance. If there are any minor matters preventing allowance of the claims, Examiner Chin may contact the undersigned attorney.

Appl. No. 09/845,198
Amdt. dated June 25, 2004
Reply to Office Action of April 29, 2004

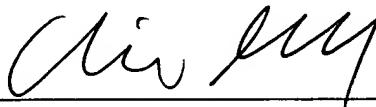
Since this Amendment and Reply is filed within two months of the mailing date of the Final Office Action, applicants assert that the expiration of the shortened statutory period will expire at the later of a) three months from the mailing date of the Final Office Action or b) the mailing date of any Advisory Action issued in response to this Amendment and Reply.

It is believed that no fee, other than the \$110 fee for the enclosed Terminal Disclaimer, is required with this Amendment and Reply. However, if there are any unanticipated fees required to maintain pendency of this application, the Patent Office may withdraw funds for those fees from Deposit Account 01-1785. Overpayments may also be credited to Deposit Account 01-1785.

Respectfully submitted

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